

THE CONSOLIDATED BANK SUIT.

THIS case drags its slow length along at just about the average tedious rate. The counsel for the defendant, Mr. RANKIN, argues that a private shareholder cannot sue under the circumstances at issue. The legal adviser of the plaintiff retorts that the liquidators had refused to take the action notwithstanding the fact that security for costs had been offered; and it was alleged that this had been accomplished by the directors buying in the shares, thereby obtaining a majority vote and overriding the desire of the minority to have the question tested in Court. The action was not taken, he submitted, to recover the money expended in the improper dividends, but was one for damages for the ext. avagant, fraudulent, if not criminal mismanagement of the directors. Instead of having come forward in a legitimate and honorable manner and asked for assistance to tide the Bank over its difficulties, the directors had deceived the public by issuing false statements to the Government, by paying dividends which were not earned, by which means the public was deceived for two years, and over two millions of dollars ruthlessly lost. Referring to the pretension that a shareholder could not sue the directors for dividends illegally made, counsel quoted from the 10th section of the Banking Act, which reads:—"No dividend or bonus shall ever be made so as to impair the paid-up capital, and if any dividend or bonus be so made, the directors knowingly and willingly concurring therein, shall be jointly and severally liable for the amount thereof to the Bank. There could be no doubt as to the concurrence of the directors in the illegal acts, as after three years, during which time they alleged the capital of the Bank was intact, and seeing the perilous position in which they stood, they applied to have the capital reduced, which resulted in a reduction not of the amount as asked for, but of 40 per cent., which, according to Sir FRANCIS HINCKS was considered unnecessarily stringent while immediately after the reduction a complete breakdown occurred. The learned counsel went on to argue that it was nonsense to contend that a shareholder who had received a dividend, believing the same to be the earnings *pro rata* on his shares, while in reality it was his capital that was being spent, had no right to sue for the return of it. The argument, on the other side, may or may not be "nonsense," from a legal point of view, as claimed. This the Court will decide, but it too often happens that what is good sense is bad law. The identical question, however, has just been raised, and so far disposed of, in a New Jersey Court. We quote the report in full:—"The case of WARREN ACKERMAN v. JOSEPH A. HALSEY, a suit to recover \$20,000, the value of 155 shares of stock in the Mechanics' National Bank, was recently argued before Judge DEPUE in Newark. N. J. The plaintiff claimed that he lost his stock through the neglect of the

defendant, the president of the bank, in not detecting the frauds of the cashier. Counsel for Mr. HALSEY moved to strike out the pleas of the plaintiff. He insisted that the plaintiff could not sue an individual director, and that this could only be done by the corporation and by the receiver. He also held that the plaintiff's declaration did not show how the funds of the bank were lost, or that the plaintiff was a stockholder at the time the funds were lost by the alleged neglect of the president." This decision of Judge DEPUE thus sustains the demurrer of the defendant, and holds that an action such as that brought by the plaintiff cannot be maintained by an individual stockholder. It could be brought only, it declares, by the corporation or by the receiver, who represents both stockholders and creditors. The legal tourney now going on here is being watched with general attention, as such large interests are at stake, and Judge DEPUE's decision, however sound it may be, will certainly awake neither sympathy nor approbation in and about Montreal.

IMPERIAL BANK OF CANADA.

WE are favored with an advance statement of this Bank, to be laid before the shareholders in Toronto on the 5th of July next. As we recently said, the banks in that fortunate city are rather astonishing financiers of Canada, as well as of the old world. Here is a Bank in its seventh year only, with a paid-up capital of \$1,175,558, making in that short time a rest of \$400,000, paying seven per cent. and all the heavy expenses connected with a banking establishment. As may be seen, the Bank could have paid eight and still added a very large amount to the rest. We imagine, however, that the ambitious Cashier has his eye on the favorite half-a-million pile, a sour-grape subject for a shareholder under stress of weather; who eyes those enormous heaps of gold called rests with jealous feelings, calling them rightly or wrongly a part of his own money, forgetting for the moment that it is this very rest that has so enormously increased the value of his stock. As we shall have occasion to refer to this statement again, after the Annual Meeting, we confine ourselves at present to the advanced statement received as below:—

PROFIT AND LOSS ACCOUNT.

31st May, 1882.	
Balance at Credit of Account, 31st May, 1881, brought forward.....	\$ 2,836 16
Profits for the year ended 31st May, 1882, after deducting charges of management and making provision for all interest due Depositors, and writing off all bad and doubtful debts...	246,531 15
Premium received on new Capital Stock.....	62,366 70
	\$311,734 01
From which has been taken:	
Dividend No. 13, 3½ per cent. (paid 2nd January, 1882).....	\$35,000 00
Dividend No. 14, 3½ per cent. (payable 3rd July, 1882).....	41,144 56
	76,144 56
	\$235,589 45
Carried to Rest Account (making that Account \$400,000).....	\$225,000 00
Written off Bank Premises Account.....	6,566 99
	231,566 99
Balance of Profit and Loss carried forward,...	\$ 4,022 46

GENERAL STATEMENT, 31st MAY, 1882.

LIABILITIES.	
Notes of the Bank in Circulation.....	\$1,096,489 00
Deposits bearing Interest.....	2,355,159 19
Deposits not bearing Interest.....	1,972,803 41
Due to other Banks in Canada.....	9,328 79
Due to Agents in the United Kingdom.....	185,381 80
Total Liabilities to the Public.....	\$5,619,162 10
Capital Stock paid up.....	1,175,558 77
Rest Account.....	400,000 06
Dividend No. 14 payable 3rd July, 1882, (3½ per cent.).....	41,144 56
Former Dividends unpaid.....	1,169 11
Amount due for Interest on outstanding Deposit Receipts (Interest upon Savings and all other Accounts Credited).....	31,422 80
Balance of Profit and Loss Account carried forward.....	4,022 46
	\$ 7,272,479 80
ASSETS.	
Gold and Silver Coin Current.....	\$266,969 28
Dominion Government Notes.....	336,452 00
Notes of and Cheques on other Banks.....	214,399 00
Balance due from other Banks in Canada..	188,702 45
Balance due from Agents in Foreign Countries.....	179,444 46
Government Securities (Dominion of Canada, Province of Ontario, "U.S." Government).....	456,706 09
Municipal and other Debentures.....	67,828 91
Total Assets immediately available....	\$1,710,502 19
Loans on Call.....	359,296 79
Loans, Discounts, or advances, on current account to Corporations.....	405,316 69
Notes and Bills discounted and current....	4,807,083 72
Notes discounted over due, secured.....	11,133 67
Notes discounted over due, unsecured.....	(Estimated Loss provided for).... 10,269 55
Real Estate, the property of the Bank (other than Bank premises).....	27,482 12
Mortgages on Real Estate sold by the Bank (all bearing interest).....	13,949 76
Bank premises, including Safes, Vaults and Office Furniture at Head Office and Branches.....	112,911 41
Other Assets, not included under foregoing heads.....	14,593 90
	\$7,272,479 80

D. R. WILKIE,
Cashier.

OBSOLETE SOFT MONEY.

OUR article of last week under the above heading has brought forth numerous queries in regard to our Canadian twenty-five cent "stamp." Its scarcity is complained of, as it is argued that it is very useful in making up sums for remittance by mails. Information is also sought as to whether the Government continue to issue it. On this latter point we have no precise knowledge, but we imagine not, though no doubt the Treasury makes as large gains proportionately out of it as we showed last week that the United States did by its own small currency. It certainly possesses a remarkable aptitude for losing itself, and no doubt large quantities get wholly destroyed. People having large money transactions regard the "shimplaster" as a nuisance, but such of our correspondents are possibly right who suggest that they are useful and convenient to the public at large.

POSTAL TELEGRAPH CO.—It is reported from Chicago that the Postal Telegraph Company, of New York, with an authorized capital stock of \$21,000,000, expects to connect New York by wire with other large cities in the United States, and to wire long messages for the public at low rates. In time trunk lines of telegraphs are expected to be constructed, and the mail letter business of large firms will be solicited at inducing rates. Already \$70,000 has been subscribed to the capital stock.